

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

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**BILL DRAFT 2013-MGz-15 [v.4] (11/13)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)**

**11/13/2012 1:08:55 PM**

Short Title: Adjust CON Monetary Thresholds.

(Public)

Sponsors: Representative Torbett.

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO EXEMPT REPLACEMENT EQUIPMENT FROM CERTIFICATE OF NEED  
REVIEW REGARDLESS OF COST; TO ELIMINATE THE MONETARY THRESHOLD  
FOR EXPEDITED CERTIFICATE OF NEED REVIEW; AND TO INCREASE THE  
MONETARY THRESHOLDS TRIGGERING CERTIFICATE OF NEED REVIEW FOR  
THE PURCHASE OF MAJOR MEDICAL EQUIPMENT AND FOR CAPITAL  
EXPENDITURES, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON  
CERTIFICATE OF NEED PROCESS AND RELATED HOSPITAL ISSUES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 131E-176(7b) reads as rewritten:

"(7b) 'Expedited review' means the status given to an application's review process when the applicant petitions for the review and the Department approves the request based on findings that all of the following are met:

- a. The review is not competitive.
- b. ~~The proposed capital expenditure is less than five million dollars (\$5,000,000).~~
- c. A request for a public hearing is not received within the time frame defined in G.S. 131E-185.
- d. The agency has not determined that a public hearing is in the public interest."

**SECTION 2.** G.S. 131E-176(14o) reads as rewritten:

"(14o) 'Major medical equipment' means a single unit or single system of components with related functions which is used to provide medical and other health services and which costs more than ~~seven hundred fifty thousand dollars (\$750,000)~~ one million five hundred thousand dollars (\$1,500,000). In determining whether the major medical equipment costs more than ~~seven hundred fifty thousand dollars (\$750,000)~~ one million five hundred thousand dollars (\$1,500,000), the costs of the equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the major medical equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater. Major medical equipment does not include replacement equipment as defined in this section."

**SECTION 3.** G.S. 131E-176(16)b. reads as rewritten:



"(16) 'New institutional health services' means any of the following:

- ...
- b. Except as otherwise provided in G.S. 131E-184(e), the obligation by any person of a capital expenditure exceeding ~~two~~four million dollars ~~(\$2,000,000)~~(\$4,000,000) to develop or expand a health service or a health service facility, or which relates to the provision of a health service. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities, including staff effort and consulting and other services, essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if the expenditure exceeds ~~two~~four million dollars ~~(\$2,000,000)~~(\$4,000,000).

...."

**SECTION 4.** G.S. 131E-176(22a) reads as rewritten:

"(22a) 'Replacement equipment' means equipment that ~~costs less than two million dollars (\$2,000,000) and is purchased for the sole purpose of replacing comparable medical equipment currently in use which will be sold or otherwise disposed of when replaced. In determining whether the replacement equipment costs less than two million dollars (\$2,000,000), the costs of equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the replacement equipment shall be included. The capital expenditure for the equipment shall be deemed to be the fair market value of the equipment or the cost of the equipment, whichever is greater.~~

**SECTION 5.** G.S. 131E-184(e) reads as rewritten:

"(e) The Department shall exempt from certificate of need review a capital expenditure that exceeds the ~~two~~four million dollar ~~(\$2,000,000)~~(\$4,000,000) threshold set forth in G.S. 131E-176(16)b. if all of the following conditions are met:

- (1) The proposed capital expenditure would:
- a. Be used solely for the purpose of renovating, replacing on the same site, or expanding an existing:
1. Nursing home facility,
  2. Adult care home facility, or
  3. Intermediate care facility for the mentally retarded; and
- b. Not result in a change in bed capacity, as defined in G.S. 131E-176(5), or the addition of a health service facility or any other new institutional health service other than that allowed in G.S. 131E-176(16)b.
- (2) The entity proposing to incur the capital expenditure provides prior written notice to the Department, which notice includes documentation that demonstrates that the proposed capital expenditure would be used for one or more of the following purposes:
- a. Conversion of semiprivate resident rooms to private rooms.
- b. Providing innovative, homelike residential dining spaces, such as cafes, kitchenettes, or private dining areas to accommodate residents and their families or visitors.
- c. Renovating, replacing, or expanding residential living or common areas to improve the quality of life of residents."

**SECTION 6.** This act becomes effective October 1, 2013.